

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF GEORGIA

) NO.
MELISSA JAMERSON and) COMPLAINT FOR INJUNCTIVE AND
ABIOLA ADETORS) MANDAMUS RELIEF
PLAINTIFFS,)
vs.)
) AGENCY Doc. No. A214-839-586
ALEJANDRO MAYORKAS,)
SECRETARY OF UNITED STATES)
DEPARTMENT OF HOMELAND)
SECURITY; UR M. JADDOU,)
DIRECTOR OF UNITED STATES)
CITIZENSHIP AND IMMIGRATION)
SERVICES; SHINEKA SCOTT)
MILLER, FIELD OFFICE)
DIRECTOR OF ATLANTA)
SERVICE CENTER, UNITED)
STATES CITIZENSHIP AND)
IMMIGRATION SERVICES;)
UNITED STATES DEPARTMENT)
OF HOMELAND SECURITY; and)
UNITED STATES CITIZENSHIP)
AND IMMIGRATION SERVICES,)
DEFENDANTS.)

INTRODUCTION

1. Plaintiffs Melissa Jamerson (a United States Citizen) and her husband, Abiola Adetoro (a citizen of Nigeria), bring this mandamus action to compel defendants to complete the adjudication of their I-130, Petition for Alien Relative, pending since March 27, 2018. This delay is unreasonable as a matter of law.
2. Ms. Jamerson and Mr. Adetoro married November 20, 2017, and filed an I-130 petition on March 27, 2018, the first step in the process for Mr. Adetoro to obtain permanent resident status. To date, Citizenship and Immigration Services ("CIS") has not adjudicated the I-130 petition.
3. The couple appeared before CIS on February 24, 2020 for the I-130 interview.
4. On March 25, 2020, CIS mailed a Notice of Intent to Deny ("NOID") to which Ms. Jamerson allowed 90 days to respond. Ms. Jamerson responded within her allotted time. To date, the I-130 petition has failed to be adjudicated.
5. Mr. Adetoro and his wife are prejudiced by the undue delay in processing of this petition. Mr. Adetoro's application for adjustment of status cannot be processed until the I-130 petition is adjudicated.

PARTIES

6. Plaintiff Melissa Jamerson is a United States citizen who is married to Mr. Abiola Adetoro.
7. Plaintiff Adetoro is the husband of Ms. Jamerson and the beneficiary of the I-130 petition that has been pending since March 27, 2018, filed by his wife on his behalf. He resides with his wife in Atlanta, Georgia.
8. Defendant Alejandro Mayorkas is the Secretary of the United States Department of Homeland Security and is sued in her official capacity only. Defendant Mayorkas is charged with the administration of the United States and Immigration Services ("CIS") and implementing the Immigration and Nationality Act. 8 CFR §2.1.
9. Defendant UR M. Jaddou is the Director of CIS and is sued in his official capacity only. CIS is the component of the Department of Homeland Security that is responsible for adjudicating Plaintiffs' I-130 petition.
10. Defendant Shineka Scott Miller is the Field Office Director of the Atlanta Service Center of CIS and is sued in her official capacity only. The Atlanta Service Center is charged with the administration of the Immigration and Nationality Act and the adjudication of petitions of domiciled in the Atlanta area. Plaintiffs'

I-130 petition is currently pending at the Atlanta Service Center.

11. Defendant Department of Homeland Security ("DHS") is the department within which CIS adjudicates petitions for alien relatives. DHS operates within this district, with headquarters in Washington D.C.

12. Defendant CIS is the component of DHS that adjudicates petitions for alien relatives. CIS operates within the district, with headquarters in Washington D.C.

JURISDICTION AND VENUE

13. Jurisdiction of this predicated upon 28 USC §§1331 and 1346(a) (2) in the matter of in controversy arises under the Constitution and laws of the United States, and the United States is a Defendant. This Court also has jurisdiction over the present action pursuant to 28 USC §2201, the Declaratory Judgment Act; 5 USC §702, the Administrative Procedures Act; and 28 USC §1361, regarding an action to compel an officer of the United States to perform his or her duty.

14. Venue is proper in this District under 28 USC §1391(e), because a substantial part of the events and omissions giving rise to the claim occurred in this district, and because Defendants operate within this district.

FACTUAL BACKGROUND

15. Plaintiff Melissa Jamerson is a United States Citizen who is married to Abiola Adetoro, a citizen of Nigeria.

Mr. Adetoro entered the United States in 2017 as a nonimmigrant visitor for pleasure (B-2) with an authorization to remain in the United States for six months.

16. Ms. Jamerson married Mr. Adetoro on November 20, 2017. Plaintiff Jamerson subsequently filed an I-130, Petition for Alien Relative, on March 27, 2018. Because Mr. Adetoro is the spouse of a United State Citizen, visa availability is not an issue as there are no numerical limitations for immediate relatives for United States citizens. INA §201(b)(2)(A)(i); 8 USC §1151(b)(2)(A)(i). Mr. Adetoro concurrently filed his I-485 Application to Register for Permanent Residence or Adjust Status.

17. Plaintiffs have attended two interviews with CIS. The first interview was May 2019. The second interview was in February 2020. A Notice of Intent to Deny was issued on March 25, 2020, to which Plaintiffs timely responded.

18. Plaintiffs have initiated several unsuccessful congressional inquiries. Plaintiffs have made several

status inquiries with CIS. Plaintiffs have provided ample evidence and documents to complete the adjudication of their case.

19. Defendants' refusal to timely adjudicate the I-130 petition and I-485 application has caused and will continue to cause Plaintiffs great hardship.

20. Plaintiffs have exhausted all administrative remedies and there are no further administrative acts Plaintiffs can take.

FIRST CAUSE OF ACTION

21. Plaintiffs re-allege and incorporate by reference, as if fully set forth herein, the allegations in paragraphs 1-20 above.

22. Defendants' failure to adjudicate and approve Plaintiffs' I-130 petition constitutes an unreasonable failure to act in violation of the Administrative Procedures Act and denies Plaintiffs due process and equal protection of the laws guaranteed by the Fifth Amendment of the United States Constitution.

SECOND CAUSE OF ACTION

23. Plaintiffs re-allege and incorporate by reference, as if fully set forth herein, the allegations in paragraphs 1-20 above.

24. Defendants' refusal to adjudicate the application for adjustment constitutes an unreasonable failure to act in violation of the Administrative Procedures Act and denies Plaintiffs due process and equal protection of the laws guaranteed by the Fifth Amendment of the United States Constitution.

REQUEST FOR RELIEF

The Plaintiffs request the Court to grant the following relief:

- A. Order Defendants to adjudicate Plaintiffs' I-130 petition on or before 60 days from the filing of this complaint, or within a reasonable time as determined by this Court.
- B. Retain jurisdiction during the adjudication of the I-130 petition in order to ensure compliance with the Court's orders.
- C. Award reasonable cost and attorney's fees; and
- D. Grant such other relief as the Court may deem just and proper.

Respectfully Submitted this 24th day of March
2023

 /s/ Kimberly
Bandoh _____
Kimberly Fowler Bandoh
Attorney for Petitioner
Georgia Bar No. 142232

Law Office of Kimberly F. Bandoh, LLC
1745 Phoenix Blvd, Ste 480, Atlanta, Georgia 30349

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing **Plaintiffs' Complaint for Injunctive and Mandamus Relief** to the following parties by depositing the same in an envelope addressed to:

U.S. Department of Justice
Civil Division
Office of Immigration Litigation
P.O. Box 878, Ben Franklin Station
Washington, DC 20044

District Director
United States Citizenship and Immigration Services
2150 Parklake Drive
Atlanta, GA 30305

Respectfully Submitted this 24th day of March 2023.

/s/Kimberly Bandoh
Kimberly Fowler Bandoh
Attorney for Petitioner
Georgia Bar No. 142232

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